

Application No.: 10/630,618
Docket No.: HT3830USNA

Page 4

REMARKS

Reconsideration is respectfully requested of the Office position of May 12, 2005.

In the present amendment, all fabric claims as well as non-elected process claims have been cancelled. Only mattress claims 9 and 11 to 18 remain under prosecution.

Claim 9, the sole independent claim, has been amended in two ways. Wording of "a panel" has been deleted. Also, provisos has been introduced at the end of the claim requiring

- (i) only a single layer is employed in the fireblocking fabric of (b) and
- (ii) only a single layer of fabric is employed for fireblocking the mattress.

It is noted these limitations do not exclude use of a fire resistant thread such as to sew layers together. However, the proviso limitations directly excludes a second layer of a fireblocking fabric as a two-layer construction with the fabric of (b).

Antecedent support for the new limitations exist throughout the patent application such as page 3, lines 14+ and page 4, lines 24+ for the single fabric employed, and page 6, lines 6+ for use in a mattress. Furthermore, the examples demonstrate the effectiveness of a single layer of fireblocking fabric during testing.

Application No.: 10/630,618
Docket No.: HT3830USNA

Page 5

Rejection Under 35 USC 103(a)

Claims 9-15, 17 and 18 stand rejected under 35 USC 103(a) based on Murphy et al. US 2004/0060119 in view of Monfalcone et al. US 2003/0082972, Forsten et al. US 5,578,368 and Keller et al. USP 6,174,584.

In response to this grounds of rejection, it is believed only brief remarks are necessary. The rejection of the mattress claims under prosecution are based on a modification of Murphy et al. based on the secondary teachings of Monfalcone et al., Forsten et al., and Keller et al.

However, the solution of Murphy et al. to provide a fire barrier for a mattress differs from the solution set forth in the present patent application. Murphy et al. requires a two-layer fire barrier; applicants' fire barrier is limited to one fireblocking fabric.

The requirement for two-layers is illustratively set forth in the Abstract. This publication in all instances requires a fire barrier fabric of two-layers namely a fire barrier layer and a thermally insulating layer. As a practical matter, the thermally insulating layer of Murphy et al. also serves as a fire barrier. Illustratively, the following wording is present, in paragraph 0034:

[0034] Accordingly, the fire barrier and thermally insulating layer are each composed of at least one char-forming flame-retardant fiber. The layers may be composed of the same fiber or different fibers.

Also, paragraph 0032 sets forth:

[0032] FIG. 3 shows a schematic view of a preferred embodiment of fire barrier fabric 20, including fire barrier layer 22 and thermally insulating layer 24, each of which independently comprise or are composed of at least one char-forming flame-retardant fiber. In the context of the invention, "independently comprise or are composed of at least one char-forming flame-retardant fiber" means that fire barrier layer 22 and thermally insulating layer 24 may have the same fiber compositions, that is, may be composed of the same fiber or blend of fibers, or may have different fiber compositions.

Thus, Murphy et al. sets forth in one embodiment that the fire barrier layer and thermally insulating layers may be the same fiber composition.

However, what is key to both layers in Murphy is the requirement in all cases of use of "at least one char-forming flame retardant fiber" (as set forth in the quoted section of paragraph 0034). Again, to repeat, the char-forming flame retardant fiber is present in the fire

Application No.: 10/630,618
Docket No.: HT3830USNA

Page 6

barrier layer and the char-forming flame retardant fiber is present in the thermally insulating layer.

Murphy et al. directly sets forth the manner in which the char-forming fiber functions in paragraph 0033:

[0033] A fire barrier fabric according to the present invention functions to protect a mattress and/or foundation from fire by forming a char when exposed to an ignition source. In the context of the present invention, the term 'char' is defined as a residue formed from material that has been exposed to heat and/or flame, and which is no longer flammable.

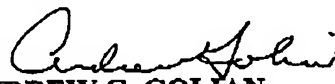
It is applicants' position that any modification of Murphy et al. by employment of the secondary publications must be directed to the two-layer construction. Yet the entire thrust of the present invention that only a single fabric and a single layer in the fabric be employed.

Again, Murphy et al. solves a problem with two layers; applicants solve the problem in protecting a mattress with a single layer.

Claim 18 stands rejected under 35 USC 103(a) on the publications previously employed further in view of Mater et al. US 2004/0198125. Mater et al. do not solve the deficiency of the two-layer construction of Murphy et al. Accordingly, this rejection must likewise fail.

In summary, all claims under construction are directed to a mattress construction. The reasons for the inapplicability of the cited publications has been presented. Withdrawal of all grounds of rejection is requested. A notice of allowance is solicited.

Respectfully submitted,


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